

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ALEXANDER SOTO

Petitioner,

- against -

CHARLOTTE SELTZER, Executive Director,
and
CREEDMOOR PSYCHIATRIC CENTER,

Respondents.
----- x

NOTICE OF MOTION
TO FILE UNDER SEAL

05 Civ. 2407 (ARR)

PLEASE TAKE NOTICE that, based on the need to protect the privacy of the petitioner respondent, Eliot Spitzer, will move this Court, on a date and at a time to be set by this Court, for an order to file our memorandum of law, declaration in opposition, and any other materials in the above captioned case under seal. This motion is made on submission and oral argument is not requested.

Dated: New York, NY
January 9, 2006

ELIOT SPITZER
Attorney General of the State of New York
Attorney for Respondent
120 Broadway
New York, New York 10271

By: s/ Chelsea Chaffee
Chelsea Chaffee
Assistant Attorney General
(212) 416-8109
Chelsea.Chaffee@oag.state.ny.us

*Unless plaintiff apposes the
Motion to seal the record by
January 20, 2006, the motion will be
granted on that date.*

In ordered.

1/10/06 O

cc. parties

U.S. D.J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ALEXANDER SOTO

Petitioner,

- against -

CHARLOTTE SELTZER, Executive Director,
and
CREEDMOOR PSYCHIATRIC CENTER,

Respondents.

DECLARATION IN
SUPPORT OF MOTION
TO FILE UNDER SEAL

05 Civ. 2407 (ARR)

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

CHELSEA CHAFFEE, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury
as follows:

1. I am an Assistant Attorney General in the office of ELIOT SPITZER, Attorney General of the State of New York, attorney for respondent. I am submitting this declaration in support of respondent's motion to file our memorandum of law, declaration in opposition, and other materials in the above captioned case under seal.
2. Alexander Soto ("petitioner"), proceeding pro se, has filed a habeas corpus application pursuant to 28 U.S.C. § 2254 alleging that he is being held in state custody at the Creedmoor Psychiatric Center ("Creedmoor") in violation of his federal constitutional rights.
3. Petitioner is currently in state custody at Creedmoor pursuant to a December 21, 2005 order of the Supreme Court, Queens County, finding that petitioner is mentally ill and in need of further hospital care and treatment and ordering him retained at Creedmoor for a period not to exceed one year.

4. In order to assist the Court in considering the claims raised in the petition, respondent intends to submit records from the state court retention proceedings which include information regarding petitioner's mental illness. Additionally, the memorandum of law in opposition to the petition discusses the information contained in these records.

5. In order to protect petitioner's privacy, respondent requests that the memorandum of law, declaration in opposition, and the exhibits attached thereto, be filed under seal. Respondent does not believe that filing under seal will prejudice petitioner in any manner, but rather will serve to protect his privacy.

WHEREFORE, for foregoing reasons, respondent's memorandum of law, declaration in opposition, and all other materials, should be filed under seal.

s/ Chelsea Chaffee
CHELSEA CHAFFEE
Assistant Attorney General
120 Broadway
New York, New York 10271-0332
(212) 416-8109
Chelsea.Chaffee@oag.state.ny.us

To: Clerk of the United States District Court
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201

Mr. Alexander Soto
15-39 Lexington Avenue, Apt. # 13A
New York, NY 10029

ALEXANDER SOTO,
Petitioner,
- against -
CHARLOTTE SELTZER, Executive Director
and
CREEDMORE PSYCHIATRIC CENTER,
Respondents.

05 CV 2407 (ARR)

DECLARATION OF SERVICE

CHELSEA CHAFFEE, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury as follows: that on January 9, 2006, she served the Motion to File Under Seal by having it mailed to petitioner, via the United States Postal Service to the following address:

Mr. Alexander Soto
15-39 Lexington Avenue, Apt. 13A
New York, New York 10029

s/ Chelsea Chaffee
CHELSEA CHAFFEE (CC 1085)
Assistant Attorney General
120 Broadway
New York, New York 10271-0332
Chelsea.Chaffee@oag.state.ny.us
(212) 416-8109

Executed on January 9, 2006